

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

CARDELL DEWAYNE JOHNSON,

Defendant.

CASE NO. 8:08CR234

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 82). The government adopted the PSR (Filing No. 74). The Defendant filed a motion for downward departure and a supporting brief (Filing Nos. 83, 84.) See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

Objections

The Defendant objects to statements in ¶ 14, a portion of the government's version of the offense. The Court is not at liberty to change the government's version of the offense, and the objection is denied.

The Defendant also objects to a statement in ¶ 73 attributed to his state presentence investigation report (“PSI”). The Court is not at liberty to change statements attributed to the state’s PSI. Also, the objection does not affect the guideline range and is of the type that should be addressed to the probation officer initially before the final version of the PSR is prepared. The objection is denied.

Motion for Downward Departure

The motion will be heard at sentencing.

IT IS ORDERED:

1. The Defendant's objections to the PSR (Filing No. 82) are denied;
2. The Defendant's motion for downward departure (Filing No. 83) will be heard at sentencing;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and
5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 23rd day of June, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge